

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BAXTER HEALTHCARE  
CORPORATION, et al.,

Plaintiffs,

No. C 07-1359 PJH

v.

**ORDER**

FRESENIUS MEDICAL CARE  
HOLDINGS, INC., d/b/a FRESENIUS  
MEDICAL CARE NORTH AMERICA,  
et al.,

Defendants.

Before the court is a request by counsel for defendants Fresenius Medical Care Holdings, Inc., et al. ("Fresenius") to continue the hearing on the parties' cross-motions for summary judgment, previously noticed for hearing on September 2, 2009. Fresenius makes the request on the basis that its lead counsel is recovering from major surgery, and is unable to attend the hearing on the scheduled date.

Unfortunately, the court's heavy calendar over the next four months – which has resulted in part from the court's unavailability from September 25 through October 14, 2009 – will not permit the re-scheduling of the cross-motions. The court is not unsympathetic, but is hopeful that one of the other numerous attorneys appearing for Fresenius in this action can provide an adequate substitute for lead counsel at the hearing.

**IT IS SO ORDERED.**

Dated: August 26, 2009



PHYLLIS J. HAMILTON  
United States District Judge